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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STEFANIE TAUBMAN, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

366 REST. ROW INC., a New York Corporation)
d/b/a JOSHUA TREE,)

Defendant.)

Case No: 09 CV 8624 (NRB)

ECF Case

APPLICATION FOR DEFAULT JUDGMENT

Plaintiff Stefanie Taubman submits this Application for A Default Judgment against Defendant 366 Rest. Row Inc., a New York Corporation d/b/a Joshua Tree by the Court pursuant to Fed. R. Civ. P. 55(b)(2) and Local Rule 55.2(b).

Defendant was served with the Summons and Complaint on October 28, 2009. No answer or responsive pleading was filed by 366 Rest. Row Inc. in the time allotted by the F.R.C.P. Defendant did file an answer on December 17, 2009, almost two months after service.

366 Rest. Row Inc. is not an infant or incompetent person.

366 Rest. Row Inc. is not in the military service.

366 Rest. Row Inc. has defaulted in appearance in this action.

Plaintiff has brought this action as a putative collective action under the Fair Labor Standards Act and seeks damages for all similarly situated employees, liquidated damages, and attorneys' fees. These amounts are subject to calculation.

Plaintiff has appended 1) the clerk's certificate of default, 2) a copy of the claim

Endorsement

Given that defendant filed an answer before this application for default judgment was filed the motion is denied.

So ordered
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to which no timely response has been make, and 3) a proposed form of default judgment.

Therefore, Plaintiff respectfully requests that a default judgment be entered against Defendant 366 Rest. Row Inc., a New York Corporation d/b/a Joshua Tree.

Dated: December 21, 2009

Respectfully Submitted

/s/ Erik H. Langeland
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